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**San Francisco County  
Pesticide Regulatory Program  
2006/2007 Performance Evaluation Report**

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Department of Pesticide Regulation  
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## **Performance Evaluation of the San Francisco County Agricultural Commissioner Pesticide Use Enforcement Program**

This report provides a performance evaluation of San Francisco County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for the fiscal year (FY) 06/07. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

### **I. Summary Report of Core Program Elements**

#### **A) Restricted Materials Permitting:**

The Restricted Materials Permit Program (RMPP) element was found not to meet DPR standards and Enforcement Work Plan (EWP) goals for FY 06/07.

#### **B) Compliance Monitoring**

Illness investigations were completed effectively and met both DPR standards and EWP goals for FY 06/07. In contrast, the inspection component of the compliance monitoring program element was found not to meet DPR standards and EWP goals for FY 06/07.

#### **C) Enforcement Response**

The Enforcement Response program element was found not to meet DPR standards and EWP goals for FY 06/07.

**Summary Statement:** San Francisco County's overall PUE program for FY 06/07 has improved with the hiring of an Agricultural Commissioner in April 2007. The PUE program has been more effective at delivering the local enforcement program of the State since the county staff person in charge of the PUE program became licensed (May 2007). There are still a number of deficiencies where the PUE program needs improvement, but since the appointment of the new commissioner, the PUE program has been revived. The following is an assessment of these deficient areas needing improvement:

The county has one inspector performing pesticide inspections; he recently passed the "Pesticide Regulation" and "Environmental Monitoring and Investigations" licenses that are required to issue restricted material permits and perform pesticide use inspections under the authority of the DPR Director. This staff person's work was overseen by a licensed inspector prior to May 2007. Title 3 of the California Code of Regulations, section 109 states, "A county agricultural inspector/biologist or weights and measures inspector shall not be directed to perform duties in those categories in which they are not licensed except under qualified supervision."

Oversight of the RMPP by a licensed person has been inconsistent and Restricted Materials Permits (RMPs) were signed by an unlicensed inspector. Pre-application site

inspections were conducted by an unlicensed inspector. PUE inspections were at times incomplete, inadequate, wrong forms were used and when non-compliances were discovered the county did not take appropriate compliance/enforcement action in FY 06/07.

These deficiencies in the San Francisco FY 05/06 PUE program had resulted in the program being ineffective for FY 05/06 and FY 06/07. Since the hiring of the new commissioner and their staff person passing the “Pesticide Regulation” and “Environmental Monitoring and Investigations” licenses exams, the PUE program has improved significantly, however, deficiencies still exist that need to be corrected.

## **II. Assessment of Core Program Effectiveness and Work Plan Goals**

### **A) Restricted Materials Permitting:**

DPR and the CACs must assure the RMPP system protects people and the environment while allowing for effective pest management. For effective implementation of the permit system, CACs must continuously evaluate the hazards posed by proposed applications and the knowledge of the restricted permit applicant. The RMPP element was found not to meet DPR standards and EWP goals.

#### **1. Permit Issuance**

The San Francisco Department of Public Health (SFDPH) permit issuance procedures and performance were evaluated through observation and interviews with relevant staff. The county issued 7 RMPs, reviewed 23 Notice of Intent (NOIs) and issued 45 Operator Identification Numbers during the FY 06/07. The RMPP did not meet DPR standards for the following reasons:

- RMPs were not signed by a licensed inspector.
- NOI review and Pre-application site inspection approvals were not conducted in compliance with California laws and regulations.
- No checklist had been developed to assure consistency in permit and operator identification issuance.

#### **Recent Corrective Measures**

- A CAC was hired by the county to adequately administer and monitor RMP issuance and RMPP management in April 2007.
- A licensed inspector began to actively oversee the RMPP in May 2007 and signs RMPs.
- NOI review and Pre-application site inspection approvals are now conducted in compliance with California laws and regulations.

#### **2. Site Evaluation**

The RMP site evaluation should utilize the CAC’s knowledge of pesticide hazards, local conditions, cropping, and fieldwork patterns, as well as handler, permittee and advisor compliance histories to address local, multi-county, and/or

regional issues. The site evaluation element of the RMP program did not meet DPR standards for FY 06/07 the following reason:

- The RMP site evaluations were not performed in compliance with California laws and regulations.
- Oversight of the RMPP was not performed in compliance with California laws and regulations.

#### **Recent Corrective Measures**

- The county has recently upgraded from hand written RMPs to the RMPP in April 2007 and to Restricted Materials Management System (RMMS) in August 2007.
- A commissioner was hired by the county to adequately administer and monitor RMP issuance and RMPP management in April 2007.
- A licensed inspector began to actively oversee the RMPP in May 2007.

### **B) Compliance Monitoring**

DPR's strategic goal to reduce risks to people and the environment depends on an effective and comprehensive compliance monitoring program. Inspections and investigations allow CACs to identify and respond to potential hazards to the workers, the public, and the environment. To assure an effective compliance monitoring program, CACs must enforce broad-based and comprehensive inspections, identify the number of inspections necessary to maintain an enforcement presence effective at deterring violators, and conduct thorough and timely investigations. The compliance monitoring program element was found not to meet DPR standards and EWP goals.

#### **1. Inspections**

An effective inspection strategy encompasses a broad spectrum of pesticide handling situations and responds quickly to local issues. The focus should be on a balance between planned and spontaneous inspections. Inspections should have broad coverage, and also focus on areas of the greatest risk. The inspection program did not meet DPR standards for the following reasons:

- There has been no centralized review of inspection activity or PUE program oversight and monitoring by a commissioner.
- The PUE inspector's inability to recognize and document violations observed during inspections continues and affects inspection quality.
- Inspections were found to be incomplete, the wrong form was used on some inspections, inaccurate boxes were checked on inspection forms and inspections were turned in even though no pesticide was applied.

#### **Recent Corrective Measures**

- A CAC was hired by the county to adequately administer and monitor PUE program management in April 2007.
- A licensed inspector began to actively oversee the PUE program in May 2007.
- A greater variety of PUE inspections (past inspection target strategy issue) have been conducted in the county by a licensed inspector.

- A number of binders have been used in an attempt to organize inspections and follow-up inspections for compliance tracking.

## **2. Investigations**

DPR and CACs have the responsibility to investigate episodes that may involve potential or actual human illness, injury, property damage, loss or contamination, and environmental effects allegedly resulting from the use, or presence of, a pesticide in a timely and thorough manner. The investigation program meets DPR's standards and EWP goals for the following reason:

- Investigations are generally well written, conducted in a timely manner, and complete.
- The PUE staff person appears to investigate all complaints, as required.
- Based on the results of an illness investigation, the CAC issued the first Notice of Proposed Action (NOPA) for a Food and Agriculture Code (FAC) section 12973 violation, use of a pesticide in conflict with label requirements (Class A violation for \$1,000).

## **C) Enforcement Response**

To realize the full benefit of the comprehensive and effective statewide pesticide regulatory program, DPR and the CACs must apply our enforcement authority fairly, consistently, and swiftly. Our joint enforcement response should emphasize worker and environmental safety and promote deterrence. The enforcement response program element was found not to meet DPR standards and EWP goals for the following reasons:

- The county did not initiate appropriate enforcement/compliance actions when violations were identified associated with non-compliances found during inspections, as required by the Enforcement Response Regulations (ERR).
- No Decision Reports have been generated, as required by the ERR, associated with non-compliances discovered on inspection forms when an enforcement action was not taken.
- The PUE program in San Francisco County had not been monitored by a licensed commissioner for FY 06/07 until April 2007.

## **Recent Corrective Measures**

- A commissioner was hired by the county to adequately administer and monitor the PUE program in April 2007.
- A licensed inspector began to actively oversee the PUE program in May 2007.
- A partial tracking system has been set up for follow-up or enforcement/compliance tracking.
- The CAC issued the first NOPA for a Food and Agriculture Code (FAC) section 12973 violation, use of a pesticide in conflict with label requirements (Class A violation of \$1,000).

## **III. Corrective Actions Previously Identified in FY 05/06**

- A licensed inspector did not issue RMPs and a checklist had not been developed to assure consistency in permit and operator identification issuance.

- The county had not implemented a pre-application site inspection plan and it had not established an evaluation process to measure the effectiveness of pre-application site inspections.
- The county had targeted fumigation activities associated with low income and immigrant populations and single resident occupancy units involving pest infestations. The inspections did not appear to have discovered non-compliances associated with the fumigations. Targeted inspections were being conducted on this activity in greater numbers than any other type of inspection by the county even though there are no apparent non-compliance issues.
- The ERR had not yet been implemented. No Decision Reports had been generated associated with non-compliances discovered on inspection forms in county files, and no tracking system had been established for follow-up or enforcement/compliance tracking.

#### **IV. Recommended Corrective Actions**

DPR and the inspector responsible for the county PUE program had jointly identified the following corrective actions:

##### **Restricted Materials Permitting:**

The issues identified in section II (A)(1) of the FY 05/06 evaluation regarding permit issuance have been addressed in the following manner:

- The county has ensured that a licensed inspector issues all RMPs since May 2007.
- The county has implemented an effective Pre-Application Site Evaluation strategy that focuses on application sites that have the greatest potential for hazard since a commissioner was appointed in April 2007 and all inspections are conducted by a licensed inspector.

##### **Compliance Monitoring Inspections:**

- DPR had requested that the county modify the current inspection strategy since no non-compliances had been detected from previous inspections. DPR will assist the county by providing inspection strategy guidance. The unlicensed inspector had stated that he would evaluate the targeting strategy for inspections. DPR had discussed that the use of restricted materials at other sites can be inspected as part of a change in targeting strategy, and have formulated a plan for additional inspections associated with landscapers and other structural operations in San Francisco.
- The County was to develop an effective inspection strategy and include it in the FY 06/07 EWP. The strategy was to be communicated to the county management.
- DPR provided additional training and direction to the unlicensed inspector to address identified issues.
- A previous licensed inspector with San Francisco County created a binder that separated and organized PUE inspections and compliance monitoring documents. The unlicensed inspector had stated that it would be

reestablished. This system still needs attention, organization and refinement. The DPR Enforcement Branch Liaison (EBL) has made suggestions on how to create an efficient tracking system to the PUE inspector.

### **Investigations**

- The CAC, with assistance from DPR, will provide training in investigative techniques and evidence collection. County management will more actively supervise investigations.
- A licensed inspector will conduct all investigations.

### **Enforcement Response:**

- The ERR is to be implemented and followed immediately. Decision Reports or civil penalty actions are to be generated associated with non-compliances discovered on inspection forms in county files. A tracking system should be established for follow-up or enforcement/compliance tracking.
- The county shall ensure that a licensed inspector is involved with all aspects of the PUE program. Also, the ERR implementation was to be conducted by a licensed inspector who was actively overseeing the enforcement/compliance action decision-making process.

## **V. Non-Core and Desirable Activities**

- The CAC's staff conducted a coordinated outreach effort with the U.S. Environmental Protection Agency (U.S. EPA) in the Chinatown District of San Francisco to search for unregistered pesticides, specifically pesticidal chalk and mothball products.
- The county developed a three-year work plan (EWP) that focuses on periodic field inspections and coordination with county HAZMAT and Housing inspectors, proper permit issuance and appropriate enforcement actions.
- The CAC has jointly developed a pesticide compliance newsletter segment with their county HAZMAT program.
- The CAC has assisted in presentation of a compliance workshop for non-ag hazardous materials users with their county HAZMAT program.